

U.S. Patent Application No. 10/722,042
Amendment dated September 7, 2004
Reply to Office Action of June 30, 2004

REMARKS/ARGUMENTS

Reconsideration and continued examination of the above-identified application are respectfully requested.

The amendments to the claims are editorial in nature or further define what the applicant regards as the invention. In particular, claims 9 and 17 are amended as independent claims including the limitations of original claim 1. Claim 1 is then amended to further define the compounds of the invention. Full support for the amendments can be found throughout the present application and the claims as originally filed. Claims 1, 4, 5, 12, 13, 17 and 19 are rephrased to remove the words "can" or "optionally" without changing the meaning or the scope of the limitations in which these words appeared. New dependent claims 23-25 are embodiments within claim 1 and are fully supported in the claims as originally filed. Accordingly, no questions of new matter should arise and entry of the amendment is respectfully requested.

Rejection of Claims 1, 8, 21 and 22 under 35 U.S.C. 102(e) over Maeno et al

Claims 1, 8, 21 and 22 were rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Maeno et al. (U.S. Patent No. 6,245,796 B1). The Examiner alleges that Maeno et al. discloses the claimed compounds wherein R^1 and R^2 are hydrogen, R^3 and R^4 are hydrogen or alkyl, R^5 , R^6 and R^7 are hydrogen, R^8 is hydrogen or alkyl, R^9 is hydrogen, X is C, Y is N and A is $(CH_2)_n$ where $n = 0$. For the following reasons, this rejection is respectfully traversed.

Independent claim 1 recites that when X is C and A is $(CH_2)_n$ where $n = 0$, then at least one of R^8 or R^9 is a substituted alkyl, $OC(=O)NR^1R^2$, $OC(=O)C_{1-4}$ alkyl, an alkylthiol, or $NR^{10}R^{11}$ wherein at least one of R^{10} or R^{11} is a substituted alkyl group, $C(=O)OC_{1-4}$ alkyl, or $C(=O)NR^1R^2$ or wherein R^{10} and R^{11} together complete a saturated 5 or 6-membered heterocyclic

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ring, or R¹⁰ and R¹¹ together complete a saturated 6-membered heterocyclic ring that includes an additional heteroatom selected from N, O, or S. Maeno et al. does not teach these compounds in claim 1. Moreover, there is nothing in Maeno et al. that teaches or suggests the particular substitutions for R⁸ and R⁹ as set forth in amended claim 1. In particular, Maeno et al. does not teach or suggest an indazole compound having a fused furan ring wherein the furan ring is substituted by at least one substituted alkyl, OC(=O)NR¹R², OC(=O)C₁₋₄alkyl, an alkylthiol, or NR¹⁰R¹¹ wherein at least one of R¹⁰ or R¹¹ is a substituted alkyl group, C(=O)OC₁₋₄ alkyl, or C(=O)NR¹R² or wherein R¹⁰ and R¹¹ together complete a saturated 5 or 6-membered heterocyclic ring or R¹⁰ and R¹¹ together complete a saturated 6-membered heterocyclic ring that includes an additional heteroatom selected from N, O, or S.

Accordingly, it is respectfully submitted that the rejection of claims 1, 8, 21 and 22 under 35 U.S.C. 102(e) as allegedly being anticipated by Maeno et al. should be withdrawn.

Rejection of Claims 1 - 22 under the judicially-created doctrine of obviousness-type double patenting over Claims 1 - 22 of U.S. Patent No. 6,696,476 B2

Claims 1 - 22 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 22 of U.S. Patent No. 6,696,476. To expedite the prosecution of the present application, and without conceding the appropriateness of the rejection or the accuracy of any allegations made by the Examiner in connection therewith, Applicants hereby file a terminal disclaimer, which is attached. Accordingly, withdrawal of the rejection of claims 1 - 22 under the judicially-created doctrine of obviousness-type double patenting over claims 1 - 22 of U.S. Patent No. 6,696,476 is respectfully requested.


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CONCLUSION

In view of the foregoing remarks, the applicant respectfully requests the reconsideration of this application and the examination and timely allowance of all of the pending claims.

If there are any fees due in connection with the filing of this Amendment, please charge the fees to Deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such extension is requested and should also be charged to our Deposit Account.

Respectfully submitted,


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